

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ROBERT M. CARMICHAEL,

Plaintiff,

-vs-

Case No. 12-C-694

**DEPARTMENT OF WORKFORCE
DEVELOPMENT, SERVICE FIRST
STAFFING, Inc., CIRCUIT COURT FOR
MILWAUKEE, THOMAS COOPER,
WILLIAM W. CASSEL, STATE OF WISCONSIN,
UNIVERSAL METRICS, Inc., and
PREMIER PLASTICS, Inc.,**

Defendants.

DECISION AND ORDER

In this, the seventh lawsuit filed by the plaintiff in the last four months (eighth in the last eleven months), Robert Carmichael alleges that his due process rights were violated when his unemployment benefits were terminated. Carmichael appealed the denial of benefits by filing an action in Milwaukee County Circuit Court, but he did not pursue the appeal any further. *See, e.g., Patrick Cudahy, Inc. v. LIRC*, 723 N.W.2d 756, 761 (Wis. Ct. App. 2006) (court of appeals reviews LIRC decision on appeal from circuit court). A state “cannot be held to have violated due process requirements when it has made procedural protection available and the plaintiff has simply refused to avail himself of them.” *Dusanek v. Hannon*, 677 F.2d 538, 543 (7th Cir. 1982); *see also Alvin v. Suzuki*, 227 F.3d 107, 116 (3d Cir. 2000) (“If there is a process in the books that appears to provide due process, the

plaintiff cannot skip that process and use the federal courts as a means to get back what he wants”).

Tangential to his primary claim, Carmichael alleges that Universal Metrics and Premier Plastics fired him in violation of the Fourteenth Amendment. These defendants are private employers, so the equal protection provisions of the Constitution do not apply. *Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling Twp.*, 8 F.3d 1160, 1168 (7th Cir. 1993). The complaint gives no indication that Carmichael exhausted his administrative remedies by filing a charge with the EEOC for purposes of a possible Title VII claim. *Gibson v. West*, 201 F.3d 990, 993 (7th Cir. 2000) (exhaustion of administrative remedies with the EEOC is a precondition of filing suit).

For the foregoing reasons, this matter is **DISMISSED** for failure to state a claim. 28 U.S.C. § 1915(e)(2).

Dated at Milwaukee, Wisconsin, this 20th day of July, 2012.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge